

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5633 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

HARISHBHAI RAMANBHAI DESAI

Versus

STATE OF GUJARAT

Appearance:

MR SHAKEEL A QURESHI for Petitioners

MR BY MANKAD ADDL PUBLIC PROSECUTOR for Respondent No. 1

MR RAWAL for Respondent No.2

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 06/10/1999

ORAL JUDGEMENT

#. Heard learned counsel appearing for the respective parties. Rule. Mr.Mankad, learned APP appearing for respondent No.1 - State and Mr.Rawal, learned counsel appearing for respondent No.2 waive service of rule for respective respondents.

#. Today, Mr. Rawal, learned counsel appearing for

respondent No.2 tenders affidavit of respondent No.2 and the same is taken on record. It is submitted that the parties have settled the matter out of the court. Looking to the settled legal position and the practice of this Court, the application can be allowed and therefore, allowed.

#. Mr.Mankad, learned APP fairly conceded that in similar type of situation this court has terminated the proceedings when the parties have compounded out of the Court in non compoundable offence and this court also in the decision of MAGANBHAI CHAMANBHAI VASANA VS. STATE OF GUJARAT rendered in Criminal Misc. Application No : 6268 of 1997 (Coram : M.S.Parikh, J.) has allowed the petition pursuant to the settlement reached by the parties out of the court.

#. This Court is also in agreement that normally in non compoundable offences, the proceedings initiated by the State should not be turned down but to avoid the multiplicity of the proceedings and when the parties have compounded out of the court, the Court can reach to a reasonable conclusion that the pendency of the criminal proceedings will not bring any fruitful results and the litigation should not be dragged for the sake of carrying it for legal conclusion. The dispute between the parties pertains to trust property and no serious offence seems to have been committed against the State and in the interest of justice, this Court is inclined to exercise its inherent jurisdiction and pass the following order;

That the complaint and the legal proceedings initiated vide C.R.No : 3122 of 1999 pending with Valsad City Police Station are hereby quashed and set aside. Rule is made absolute accordingly. Direct Service is permitted.

Date : 6-10-1999 [C.K.Buch, J.]

#kailash#